

1 Joseph R. Saveri (SBN 130064)
jsaveri@lchb.com
2 Brendan P. Glackin (SBN 199643)
bglackin@lchb.com
3 Andrew S. Kingsdale (SBN 255669)
akingsdale@lchb.com
4 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP
275 Battery Street, 29th Floor
5 San Francisco, CA 94111-3339
Telephone: (415) 956-1000
6

Merrill G. Davidoff (Admitted *Pro Hac Vice*)
7 mdavidoff@bm.net
Bart D. Cohen (Admitted *Pro Hac Vice*)
8 bcohen@bm.net
Michael J. Kane (Admitted *Pro Hac Vice*)
9 mkane@bm.net
BERGER & MONTAGUE, P.C.
10 1622 Locust Street
Philadelphia, PA 19103
11 Telephone: (215) 875-3000

12 *Co-Lead Counsel for Plaintiffs*

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 In re ATM FEE ANTITRUST
LITIGATION

Master File No. C04-2676 CRB

CLASS ACTION

19 This Document Relates To:
20 ALL ACTIONS

**DECLARATION OF JOSEPH R. SAVERI
IN OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
PURSUANT TO THE COURT'S ORDER
OF JUNE 21, 2010**

22 Date: Not Set
23 Time: Not Set
Courtroom: 8
24 The Honorable Charles R. Breyer

25 **DOCUMENT SUBMITTED UNDER SEAL**

26 **(EXHIBITS REDACTED)**
27
28

1 I, Joseph R. Saveri, declare as follows:

2 1. I am a partner at the law firm of Lief, Cabraser, Heimann & Bernstein, one
3 of the co-lead counsel for Plaintiffs in this matter, and a member in good standing of the State Bar
4 of California and the Bar of the United States District Court for the Northern District of
5 California. I submit this Declaration in support of Plaintiffs' Opposition To Defendants' Motion
6 for Summary Judgment Pursuant to the Court's Order of June 21, 2010. I have personal
7 knowledge of the matters set forth herein, and could and would testify competently thereto if
8 called upon to do so.

9 2. Attached hereto as Exhibit _A_ is a true and correct copy of the
10 Declaration of Ronald V. Congemi in Support of Concord EFS, Inc. and First Data Corporation's
11 Motion for Summary Judgment on Plaintiffs' Per Se Claim, July 21, 2005.

12 3. Attached hereto as Exhibit _B_ is a true and correct copy of the
13 Declaration of Ronald V. Congemi, in Support of Concord EFS, Inc. and First Data Corporation's
14 Motion for Summary Judgment on Plaintiffs' Per Se Claim, August 3, 2007.

15 4. Attached hereto as Exhibit _C_ is a true and correct copy of excerpts of the
16 Deposition of Edward A. Labry, III, taken on July 28, 2006.

17 5. Attached hereto as Exhibit _D_ is a true and correct copy of excerpts of the
18 Deposition of Ronald V. Congemi taken on July 26, 2006.

19 6. Attached hereto as Exhibit _E_ is a true and correct copy of excerpts of the
20 Deposition of David C. Cohen taken on October 9, 2007.

21 7. Attached hereto as Exhibit _F_ is a true and correct copy of excerpts of the
22 Deposition of Ralph A. Perry taken on October 4, 2007.

23 8. Attached hereto as Exhibit _G_ is a true and correct copy of excerpts of the
24 Deposition of Jeffrey Pearlberg taken on November 13, 2007.

25 9. Attached hereto as Exhibit _H_ is a true and correct copy of excerpts of the
26 Deposition of Kerry Brashears taken on October 30, 2007.

27 10. Attached hereto as Exhibit _I_ is a true and correct copy of excerpts of the
28 Deposition of Debra Rossi taken on July 17, 2006.

1 11. Attached hereto as Exhibit _J_ is a true and correct copy of excerpts of the
2 Deposition of Elizabeth Lynn taken on July 21, 2006.

3 12. Attached hereto as Exhibit _K_ is a true and correct copy of excerpts of the
4 Deposition of Dennis F. Lynch taken on November 6, 2007.

5 13. Attached hereto as Exhibit _L_ is a true and correct copy of excerpts of the
6 Deposition of James Walker taken on October 11, 2007.

7 14. Attached hereto as Exhibit _M_ is a true and correct copy of excerpts of
8 the Deposition of Jennifer Haag taken on October 30, 2007.

9 15. Attached hereto as Exhibit _1_ is a true and correct copy of [RPWB 12873]
10 BAC 01170 – BAC 01171.

11 16. Attached hereto as Exhibit _2_ is a true and correct copy of [RPWB 16039]
12 STAR 00123134 – STAR 00123144.

13 17. Attached hereto as Exhibit _3_ is a true and correct copy of [RPWB 8142]
14 STAR 00063869 – STAR 00063873.

15 18. Attached hereto as Exhibit _4_ is a true and correct copy of [RPWB 3796]
16 STAR 00021485 – STAR 00021512.

17 19. Attached hereto as Exhibit _5_ is a true and correct copy of [RPWB 10604]
18 BAC 003596 – BAC 003606.

19 20. Attached hereto as Exhibit _6_ is a true and correct copy of [RPWB 3591]
20 STAR 00018420 – STAR 00018427.

21 21. Attached hereto as Exhibit _7_ is a true and correct copy of [RPWB 7720]
22 STAR 00055983 – STAR 00055996.

23 22. Attached hereto as Exhibit _8_ is a true and correct copy of [RPWB 24539]
24 WFB 019785 – WFB 019786.

25 23. Attached hereto as Exhibit _9_ is a true and correct copy of [RPWB 28625]
26 ST 0008062 – ST 0008065.

27 24. Attached hereto as Exhibit _10_ is a true and correct copy of [RPWB
28 24563] WFB 020259.

1 25. Attached hereto as Exhibit _11_ is a true and correct copy of [RPWB
2 26893] WFB 044341 – WFB 044342.

3 26. Attached hereto as Exhibit _12_ is a true and correct copy of [RPWB 7146]
4 WFB 003327 – WFB 003344.

5 27. Attached hereto as Exhibit _13_ is a true and correct copy of [RPWB
6 12598] STAR 00109544 – STAR 00109588.

7 28. Attached hereto as Exhibit _14_ is a true and correct copy of [RPWB
8 12590] STAR 00109370 – STAR 00109374.

9 29. Attached hereto as Exhibit _15_ is a true and correct copy of [RPWB
10 12931] WFB 004026 – WFB 004035.

11 30. Attached hereto as Exhibit _16_ is a true and correct copy of [RPWB
12 16073] STAR 00124391.

13 31. Attached hereto as Exhibit _17_ is a true and correct copy of [RPWB
14 29523] ST 0016393 – ST 0016394.

15 32. Attached hereto as Exhibit _18_ is a true and correct copy of [RPWB
16 29515] ST 0016248 – ST 0016250.

17 33. Attached hereto as Exhibit _19_ is a true and correct copy of [RPWB
18 29522] ST 0016392.

19 34. Attached hereto as Exhibit _20_ is a true and correct copy of [RPWB
20 26597] WFB 041634.

21 35. Attached hereto as Exhibit _21_ is a true and correct copy of [RPWB
22 26607] WFB 041742.

23 36. Attached hereto as Exhibit _22_ is a true and correct copy of [RPWB
24 12397] WFB 004007 – WFB 004016.

25 37. Attached hereto as Exhibit _23_ is a true and correct copy of [RPWB
26 12395] WFB 004002.

27 38. Attached hereto as Exhibit _24_ is a true and correct copy of [RPWB
28 12396] WFB 004003 – WFB 004006.

1 39. Attached hereto as Exhibit _25_ is a true and correct copy of [RPWB
2 11278] STAR 00104777 – STAR 00104823.

3 40. Attached hereto as Exhibit _26_ is a true and correct copy of [RPWB 5354]
4 STAR 00032793 – STAR 00032796.

5 41. Attached hereto as Exhibit _27_ is a true and correct copy of [RPWB 7164]
6 WFB 003428 – WFB 003429.

7 42. Attached hereto as Exhibit _28_ is a true and correct copy of [RPWB 5036]
8 STAR 00027313 – STAR 00027316.

9 43. Attached hereto as Exhibit _29_ is a true and correct copy of [RPWB 4481]
10 WACHB 001007 – WACHB 001011.

11 44. Attached hereto as Exhibit _30_ is a true and correct copy of [RPWB 7160]
12 WFB 003403 – WFB 003406.

13 45. Attached hereto as Exhibit _31_ is a true and correct copy of [RPWB 5283]
14 STAR 00031513 – STAR 00031517.

15 46. Attached hereto as Exhibit _32_ is a true and correct copy of [RPWB 3456]
16 STAR 00003676 – STAR 00003679.

17 47. Attached hereto as Exhibit _33_ is a true and correct copy of [RPWB 3454]
18 STAR 00003668 – STAR 00003671.

19 48. Attached hereto as Exhibit _34_ is a true and correct copy of [RPWB 5020]
20 STAR 00026784 – STAR 00026819.

21 49. Attached hereto as Exhibit _35_ is a true and correct copy of [RPWB
22 10371] CBW 0012365 – CBW 0012368.

23 50. Attached hereto as Exhibit _36_ is a true and correct copy of [RPWB 5291]
24 STAR 00031603 – STAR 00031606.

25 51. Attached hereto as Exhibit _37_ is a true and correct copy of [RPWB 5066]
26 STAR 00028415 – STAR 000 28418.

27 52. Attached hereto as Exhibit _38_ is a true and correct copy of [RPWB 5076]
28 STAR 00028528 – STAR 00028530.

1 53. Attached hereto as Exhibit _39_ is a true and correct copy of [RPWB 9421]
2 STAR 00096583 – STAR 00096590.

3 54. Attached hereto as Exhibit _40_ is a true and correct copy of [RPWB 9420]
4 STAR 00096570 – STAR 00096582.

5 55. Attached hereto as Exhibit _41_ is a true and correct copy of [RPWB 9427]
6 STAR 00096645 – STAR 00096655.

7 56. Attached hereto as Exhibit _42_ is a true and correct copy of [RPWB 7735]
8 STAR 00056564 – STAR 00056571.

9 57. Attached hereto as Exhibit _43_ is a true and correct copy of [RPWB 9045]
10 STAR 00082401 – STAR 00082427.

11 58. Attached hereto as Exhibit _44_ is a true and correct copy of [RPWB 3383]
12 STAR 00001469 – STAR 00001473.

13 59. Attached hereto as Exhibit _45_ is a true and correct copy of [RPWB 3365]
14 STAR 00000946 – STAR 00000976.

15 60. Attached hereto as Exhibit _46_ is a true and correct copy of [RPWB 3367]
16 STAR 00001006 – STAR 00001036.

17 61. Attached hereto as Exhibit _47_ is a true and correct copy of [RPWB 9488]
18 STAR 00097101.

19 62. Attached hereto as Exhibit _48_ is a true and correct copy of [RPWB 3368]
20 STAR 00001037 – STAR 00001063.

21 63. Attached hereto as Exhibit _49_ is a true and correct copy of [RPWB 3369]
22 STAR 00001064 – STAR 00001090.

23 64. Attached hereto as Exhibit _50_ is a true and correct copy of [RPWB 3370]
24 STAR 00001091- STAR 00001116.

25 65. Attached hereto as Exhibit _51_ is a true and correct copy of [RPWB
26 28409] WFB 068990 – WFB 069018.

27 66. Attached hereto as Exhibit _52_ is a true and correct copy of [RPWB
28 28410] WFB 069019 – WFB 069047.

1 67. Attached hereto as Exhibit _53_ is a true and correct copy of [RPWB
2 10358] CBW 0012318 – CBW 0012322.

3 68. Attached hereto as Exhibit _54_ is a true and correct copy of [RPWB 5154]
4 STAR 00029462 – STAR 00029464.

5 69. Attached hereto as Exhibit _55_ is a true and correct copy of [RPWB 7531]
6 STAR 00051186 – STAR 00051187.

7 70. Attached hereto as Exhibit _56_ is a true and correct copy of [RPWB 8031]
8 STAR 00062560 – STAR 00062562.

9 71. Attached hereto as Exhibit _57_ is a true and correct copy of [RPWB
10 20054] B1-0043342 – B1-0043344.

11 72. Attached hereto as Exhibit _58_ is a true and correct copy of [RPWB
12 46094] Walker 0014 – Walker 0016.

13 73. Attached hereto as Exhibit _59_ is a true and correct copy of [RPWB 1522;
14 RPWB 1523; RPWB 1527; RPWB 1531; RPWB 1532] P-PB 000001; P-PB 000002; P-PB
15 000006; P-PB 000010; and P-PB 000012; portions of Brennan Bank Statements produced.

16 74. Attached hereto as Exhibit _60_ is a true and correct copy of [RPWB 1681;
17 RPWB 1682; RPWB 1687; RPWB 1698; RPWB 1706] P-TC 000002; P-TC 000003; P-TC
18 000014; P-TC 000086; and P-TC 000139; portions of Crayton Bank Statements produced.

19 75. Attached hereto as Exhibit _61_ is a true and correct copy of [RPWB
20 1366; RPWB 1371; RPW B 1381; RPWB 1390] P-DGM 000002; P-DGM 000022; P-DGM
21 000058; and P-DGM 000105; portions of Martinez Bank Statements produced.

22 76. Attached hereto as Exhibit _62_ is a true and correct copy of [RPWB
23 24555] WFB 020119 – WFB 020136.

24 77. Attached hereto as Exhibit _63_ is a true and correct copy of [RPWB
25 41134] WACHB 112673 – WACHB 112674.

26 78. Attached hereto as Exhibit _64_ is a true and correct copy of [RPWB
27 31493] WACHB 031727.

28

1 79. Attached hereto as Exhibit _65_ is a true and correct copy of [RPWB
2 20034] B1-0043219 – B1-0043220.

3 80. Attached hereto as Exhibit _66_ is a true and correct copy of [RPWB
4 11757] ST 0005628.

5 81. Attached hereto as Exhibit _67_ is a true and correct copy of [RPWB
6 49240] PLTF 45034 – PLTF 45044.

7 82. Attached hereto as Exhibit _68_ is a true and correct copy of [RPWB
8 49248] PLTF 45183 – PLTF 45189.

9 83. Attached hereto as Exhibit _69_ is a true and correct copy of [RPWB
10 49242] PLTF 45046.

11 84. Attached hereto as Exhibit _70_ is a true and correct copy of [RPWB
12 49246] PLTF 45173 – PLTF 45177.

13 85. Attached hereto as Exhibit _71_ is a true and correct copy of [RPWB
14 42430] WACHB 137012 – WACHB 137014.

15 86. Attached hereto as Exhibit _72_ is a true and correct copy of [RPWB
16 49247] PLTF 45178 – PLTF 45182.

17 87. Attached hereto as Exhibit _73_ is a true and correct copy of [RPWB
18 12377] WFB 003873 – WFB 003927.

19 88. Attached hereto as Exhibit _74_ is a true and correct copy of [RPWB
20 17708] BAC 058927 – BAC058946.

21 89. Attached hereto as Exhibit _75_ is a true and correct copy of [RPWB
22 17703] BAC 058827 – BAC 058847.

23 90. Attached hereto as Exhibit _76_ is a true and correct copy of [RPWB
24 12940] WFB 004273 – WFB 004285.

25 91. Attached hereto as Exhibit _77_ is a true and correct copy of [RPWB
26 16965] BAC 029258 – BAC 029278.

27 92. Attached hereto as Exhibit _78_ is a true and correct copy of [RPWB
28 23698] WFB 006463 – WFB 006464.

1 93. Attached hereto as Exhibit _79_ is a true and correct copy of [RPWB
2 16479] BAC 024971 – BAC 024990.

3 94. Attached hereto as Exhibit _80_ is a true and correct copy of [RPWB
4 16372] BAC 017261 – BAC 017271.

5 95. Attached hereto as Exhibit _81_ is a true and correct copy of [RPWB 8336]
6 STAR 00068439 – STAR 00068474.

7 96. Attached hereto as Exhibit _82_ is a true and correct copy of [RPWB
8 46548] STAR 00027386 and STAR 00027577 – STAR 00027586, a portion of the actual
9 document produced by defendant First Data / Concord.

10 97. Attached hereto as Exhibit _83_ is a true and correct copy of [RPWB
11 10674] BAC 005160 and BAC 005354 – BAC 005365, a portion of the actual document
12 produced by defendant Bank of America.

13 98. Attached hereto as Exhibit _84_ is a true and correct copy of [RPWB 7733]
14 STAR 00056091 and STAR 00056291 – STAR 00056302, a portion of the actual document
15 produced by defendant First Data / Concord.

16 99. Attached hereto as Exhibit _85_ is a true and correct copy of [RPWB 9335]
17 STAR 00094987 and STAR 00095166 – STAR 00095173, a portion of the actual document
18 produced by defendant First Data / Concord.

19 100. Attached hereto as Exhibit _86_ is a true and correct copy of [RPWB 9557]
20 STAR 00098459, STAR 00098551 – STAR 00098552, and STAR 00095651 – STAR 00095659;
21 portions of the actual document produced by defendant First Data / Concord.

